

*GAO Referral Not
Required*

COMPILATION OF GAO ACCESS TO RECORDS PROBLEMS
ENCOUNTERED IN MAKING AUDITS OF FOREIGN
OPERATIONS AND ASSISTANCE PROGRAMS

In response to the request of the Chairman, Senate Foreign Relations Committee of February 25, 1971, we have made an analysis of the access to records problem, including a compilation of specific instances where the General Accounting Office (GAO) has been denied access or delayed in obtaining access to Executive Branch records or materials during recent years.

We have cited examples of denials of information and delaying or hindering actions that have taken place during eight overseas reviews conducted by GAO's International Division during approximately the last two years. Five of the reviews were conducted at the request of your Committee and the remaining three were initiated by GAO.

We believe the Budget and Accounting Act of 1921, as reinforced by recent expressions of intent by congressional committees, leaves no doubt but that Congress and GAO are expected to have access to all records, documents, or papers necessary to effectively evaluate the various programs of the Executive Branch.

However, the Departments of State and Defense have in many instances taken the position that certain information is not releasable to GAO and the Congress. Information has been denied our auditors both in the field and at the Washington level and in certain cases, information has been supplied only after time consuming reviews by successively higher organizational levels within the Departments.

The time-consuming processes employed by the Departments in many cases have hampered our auditors in the discharge of their duties to the point that audit teams in the interest of our economical use of manpower resources had to be withdrawn from the audit site prior to a decision being made by the Departments as to whether our request to examine documents would be approved or denied. In other cases, information was provided on a piecemeal basis and certain documents were withheld which would have provided the continuity of Departmental actions necessary in our evaluation of the overall program under review.

In our opinion, the delays result in a de facto denial of records which should be made available in accordance with our legislative authority and the intent of Congress.

Following is a list of types of information that we believe are necessary in the conduct of an audit but have not been provided in a timely manner or refused outright:

1. future planning information and documents, both formal and informal;
2. internal working papers and staff recommendations relating to programs planned or in process;
3. negotiation documents, papers, memorandums, and working papers, before, during and after negotiations, regardless of whether or not the information is considered sensitive;
4. management reports including recommendations or conclusions reached, whether approved or unapproved by higher authority,

field trip reports, observations, and records of conversations pertinent to the matters under review;

5. access to records, documents or papers originated or directly related to foreign governments but in the possession of United States agencies, when they relate to programs in which the United States has a direct interest; and
6. access to all United States supported bases and installations regardless of the geographical location.

Following is a discussion of GAO's authority under the Budget and Accounting Act of 1921, and the Foreign Assistance Act of 1961;

Department of State and Department of Defense (DOD) and their various organizational elements, regulations, directives, or messages on GAO's right of access to information; and examples of denials and delays of information by the Departments of State and Defense.

General Accounting Office Authority

The position of GAO is that full and complete access to all records pertaining to the subject matter of an audit or review is required. This is required in order that GAO can fully carry out its duties and responsibilities. The intent of the various laws assigning authority and responsibility to the GAO is clear on this point. This policy does not admit the propriety of any restrictions on GAO's legal authority other than that specifically contained in law. The right of generally unrestricted access to needed records is not only based on laws

enacted by the Congress but is inherent in the nature of the duties and responsibilities of the GAO.

The basic authority governing GAO's access to records of Government agencies is contained in section 313 of the Budget and Accounting Act, 1921, (31 U.S.C. 54) as follows:

"All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the Comptroller General or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment ****"

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The more important factors underlying the laws and GAO's policy of insisting on generally unrestricted access to pertinent records of agencies and contractors in making GAO audits and reviews are summarized below:

1. The making of an adequate, independent, and objective examination contemplates obtaining a comprehensive understanding of all important factors underlying the decisions and actions of the agency or contractor management relating to the subject of GAO examinations.
2. Enlightened management direction and execution of a program must necessarily consider the opinions, conclusions, and recommendations of individuals directly engaged in programs that are an essential and integral part of operations; knowledge of this types is just as important in making an independent review as it is in making the basic management decisions.

3. Withholding information could permit concealment of adverse conditions by responsible officials. The denial of information developed in an internal review to higher authority, or any other official properly concerned, hampers the external review and independent consideration of the effectiveness and efficiency of the activities, and necessitates a duplication of effort and increased costs.

4. Internal reviews on behalf of agency management are highly desirable. Such reviews represent one of the methods by which management can keep informed of how large and complex activities are being carried out. Management should take vigorous corrective action on any deficiencies disclosed. However, the effectiveness of a program of self-evaluation and management improvement is not dependent upon restricting the information developed to the individuals or departmental level responsible for the activity under examination. Such information is of great importance to higher administrative levels of review having a legitimate interest or concern in the subject. The effectiveness with which internal review activities are carried out and the effectiveness with which corrective action is implemented is clearly of interest and concern to the GAO in the performance of its statutory responsibilities and reporting to the Congress.

5. There is no basis in law or logic for a distinction between factual information and internal opinions, conclusions, and recommendations insofar as our authority and need for information

is concerned. A sharp distinction between these categories is not only difficult to make but physical segregation of them is impractical.

6. The disclosure to the GAO of frankly stated internal opinions, conclusions, and recommendations is not contrary to the public interest. The system of management control which results in such internal communications should be properly conceived, administered, and dedicated to efficient and effective operations rather than oriented toward a defense of possible criticism. Under these circumstances, the requirement of disclosure should tend to improve the caliber of the internal opinions, conclusions, and recommendations rather than impair their usefulness to the management because of softened criticism, avoidance of doubtful matter, and general restraint.

7. All books, documents, papers, and other records relating to the costs borne by the United States are records relating directly to the financial interest of the United States. Such records are not limited to formal agreements or contracts and the supporting data, but include all underlying data concerning the need, utilization, and disposition of funds which afford the basis for or are involved in any way with the incurrence of costs by the United States. Pertinent records may include, but are not limited to records in support of (a) future plans and programs, (b) internal working papers, observations and trip reports of advisers and (c) evaluations, recommendations and conclusions of internal evaluation groups.

A remedy bearing on our access to records of Government agencies is contained in section 634c of the Foreign Assistance Act of 1961, as amended. Section 634c states that:

"None of the funds made available pursuant to the provisions of this Act shall be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this Act, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that he has forbidden the furnishing thereof pursuant to request and his reason for so doing."

The above section applies only to funds appropriated under the Foreign Assistance Act; it is not applicable to the military service appropriations.

Department of Defense and Department of State
Restrictive Regulations

Both the Departments of Defense and State and their various organizational elements recognize GAO's rights to documents, records and papers as contained in the Budget and Accounting Act of 1921, but at the same time the Departments have directed that certain types of information not be furnished to GAO. Normally these regulations or directives and implementing messages do not state that GAO cannot be furnished the information, but rather that their personnel in

the field can not furnish the information unless authorization is received from higher authority; this normally means officials of the Departments in Washington.

Following are pertinent excerpts from regulations, directives, and implementing messages of the Departments of State and Defense and their various organization elements restricting GAO's right to records.

Department of Defense

The Department of Defense's basic policy guidance on cooperation with GAO and access to records is contained in DOD Directive Number 7650.1, dated July 9, 1958. Although the directive was not agreed to by us, it sets forth the working arrangement under which we have operated. That directive contains three categories of information that DOD considers to be essentially nonreleasable to GAO--those are (1) budgets for future years' programs, (2) reports of non-Department of Defense agencies, and (3) reports of Inspector General and criminal investigation organizations.

However, in some cases implementing messages from DOD and regulations by the military services and major commands have placed additional restrictions on GAO's access to records. The restrictions vary somewhat among the military services and commands. We believe the following two illustrations demonstrate the restrictions imposed by DOD on access to records necessary for GAO to make effective evaluation of DOD programs.

1. U.S. European Command Headquarters, Directive Number 50-5 dated June 18, 1971

The appendix to the above directive contains a listing of documents and categories of information which the chiefs of Military Assistance

Advisory Groups and missions may not release to GAO without approval from higher authority. They are as follows:

- a. Recommended changes to force objectives.
- b. Host country replies to NATO questionnaires and related MAAG analyses.
- c. Information relating essentially to military or international planning considerations and pertaining to matters of strategy, such as war plans or memorandums leading to the formulation of such plans.
- d. The Military Assistance Five-Year Plan for a particular country except data included in the military assistance program which has been initially justified before the Congress.
- e. The quantity and projected delivery of items and services included in a specific fiscal year military assistance program prior to the initial justification of the program before the Congress.
- f. Operational status reports concerning tactical effectiveness of host country forces. (Factual data, such as personnel strengths and allowances and equipment inventories and allowances, may be extracted from these reports and furnished the GAO in response to a specific request for such data from the GAO.) Note: This restriction excludes combat capability ratings assigned by chiefs of Air Force sections of the MAAGs.
- g. Reports of the Inspector General, Foreign Assistance, Department of State.

h. USEUCOM command Inspection reports (Factual data specifically related to the area of the GAO audit may be extracted from these reports and furnished in response to a specific request for such data from the GAO)

i. Documents related to intelligence collection and analysis

j. Host country documents, reports, and data

2. Joint State-Agency for International Development-Defense Message dated December 18, 1970

This message, which was drafted by DOD, was directed to the American Embassies in Bangkok, Manila, Saigon, and Seoul, and the Pacific Command in Hawaii. It stated, missions and commands should not, without specific Washington authority, allow GAO personnel to consult or otherwise have access to the following:

a. Documents relating to war plans, future military assistance service funded or U.S. military operations budgets and planning data.

b. Confidential correspondence exchanged between heads of State.

c. Presidential memoranda.

d. Reports of the Inspector General.

e. Performance Evaluation Reports.

f. Internal executive branch working papers and memoranda.

g. Telegrams, memoranda or other documents revealing sensitive information about the conduct of United States negotiations with participating countries or South Vietnam.

h. Other material which the Ambassador or major military component commanders consider may be sensitive and could, if revealed, have a serious adverse effect on the conduct of United States Government relations with the participating countries or with other countries or might otherwise prejudice the national interests of the United States.

The message also contained a statement that GAO representatives will have no need to consult participating country or Government of Vietnam officials or agencies for purposes of present review since such contacts could have adverse consequences.

In reviewing the military service regulations it is interesting to note that the military service regulations were revised between July and September 1970 which allows GAO access to planning estimates for specific programs. This revision, however, has not been incorporated in DOD regulations and implementing instructions.

Department of State

The Department of State's basic overall policy guidance for making documents available to GAO is contained in their Foreign Affairs Manual, (FAM), Volume 4, Section 934. The FAM quotes the pertinent part of section 313 of the Budget and Accounting Act, and states it is the State Department's policy to cooperate by making available to GAO representatives their documents.

However, the FAM further states that Department of State approval is to be obtained first when in the opinion of the ambassador or bureau head any document requested by GAO is of such significance that:

1. Its disclosure would seriously impair relations between the United States and other countries in the conduct of foreign affairs, or otherwise prejudice the best interests of the United States.
2. It is a document directed to the President, the National Security Council, or a similar White House board.
3. It is a document relating to formulation of sensitive substantive policy (as distinguished from a statement of or implementation of policy).
4. It is a document that is generally restricted, such as personnel security files, records relating to citizenship of individuals, Foreign Service inspectors' reports, visa records, intelligence and investigative records, and classified material of other agencies except in accordance with the applicable regulations and consent of the originating agency.

In a November 17, 1970, message from the Department of State to all diplomatic and consular posts, the State Department restated their guidance on the release of information and documents to GAO. The message emphasized that while GAO has a statutory basis for requesting information and access to documents, the President at the same time, enjoys the historic privilege of withholding certain information the disclosure of which would be incompatible with the public interest.

The message enumerated the restrictions on GAO's access to records as contained in the FAM and also stated that sensitive information about the conduct of United States negotiations with foreign countries may

come within the category of information restricted to GAO. The message also stated that should GAO representatives indicate an intention to approach the host government, they should be discouraged from doing so, unless contrary guidance is received from the State Department.

In a letter dated December 16, 1970, the Comptroller General requested the Secretary of State to rescind the additional restrictions placed on GAO's access to records as contained in the November 17, 1970, message from the Department of State. The Comptroller General noted in his letter that the new instructions would compound the problems that GAO has been experiencing in obtaining access to records pertinent to our reviews. A copy of the Comptroller General's letter was also forwarded to the Assistant to the President for National Security Affairs on December 19, 1970, in view of the fact that the Secretary of State's message was cleared by the White House prior to release.

On January 22, 1971, the State Department replied to the Comptroller General that it was not the intention of the State Department to issue more restrictive regulations regarding GAO's request in the field for access to documents, but rather to remind their overseas locations of the existing procedures as contained in the FAM on access to sensitive documents.

At the request of the Comptroller General, the State Department informed all diplomatic and consular posts on February 16, 1971, that it was not the intention of the November 17, 1970, message to impose additional restrictions on GAO's access to records.

The Assistant to the President for National Security Affairs
replied on February 27, 1971, to the Comptroller's letter of December 19,
1970, and stated that the policy of the Administration remains one of the
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fullest cooperation with the Congress and with the GAO. The letter, however, noted that in regard to the requirement for United States missions in the field to refer sensitive decisions back to Washington, that this seems a reasonable administrative procedure, and that it remains incumbent upon the departments to assure that such referrals are handled with dispatch here in Washington.

Based upon the delays that occurred in GAO's gaining access to records during our reviews, we believe that the implementing restrictions of November 17, 1970, to the FAM did in effect result in additional restrictions on GAO's access to records. Examples are included in the following section.

Examples of Delays and Denials of Information by
the Departments of Defense and State

The Departments by their regulations, directives, and implementing messages have established hierarchic systems which have seriously restricted their field organizations in responding to requests for certain types of information. In many instances, after long delays occasioned by the referral of GAO requests to Washington, the information requested was received. However, by that time our field auditors were no longer at the site and were not in a position to properly evaluate the information in conjunction with other material at the site and could not readily obtain the views of the personnel most familiar with the information.

In addition to these delaying tactics, which hindered an effective timely evaluation of United States programs overseas, we were also denied other pertinent and significant information needed to properly

carry out our statutory responsibilities. In one instance we were denied the right to conduct a review, while in two other instances we were denied the right to visit United States supported military bases in Vietnam.

Shown below are a few examples of the denials and delaying tactics encountered by GAO during eight overseas reviews conducted during the last two years.

Departments of Defense and State refusal to allow GAO to visit U.S. supported bases in Vietnam

The Departments of Defense and State have denied permission to GAO to visit the Thai and Korean camps in Vietnam. Our reasons for requesting the visits were to observe the large amount of United States equipment and supplies provided to the Thai and Korean troops and to talk with United States military liaison personnel stationed at the camps as to their duties and responsibilities. An additional reason for our requests to visit the camps was the fact that we had observed during a visit to the Thai Overseas Replacement Training Center in Thailand on September 18, 1970, what appeared to be large amounts of excess equipment.

On September 21, 1970, we verably requested permission from the Commander, U.S. Military Assistance Command, Vietnam, to visit Camp Bearcat, location of the Thai contingent. We were informed by the Commander on September 23, 1970, that the visit would not be authorized without prior clearance from higher headquarters and that our request should be submitted in writing which we did on September 25, 1970. While our request stated that we did not intend to talk to any Thai personnel during the visit to the camp, nevertheless, United States

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military officials in Vietnam, with concurrence of United States Embassy officials in Bangkok and Saigon, denied us permission to visit the installation at that time without clearance from higher authority. The reason cited for denying our request was that GAO should have no need to consult host country officials or agencies and that such contacts could have adverse consequences.

The Department of State sent a message dated November 17, 1970, to all of its diplomatic and consular posts which provided guidance to the posts for handling GAO examinations. Among other things, the guidance stated that GAO representatives should be discouraged from consulting host country officials or agencies, unless contrary guidance was received from the Department. A joint State-Agency for International Development-Defense message, dated December 18, 1970, reaffirmed this guidance. (See page 10)

The Comptroller General, in a letter to the Secretary of State, dated December 16, 1970, pointed out that GAO has regularly made visits to host government installations to see how assistance financed by the United States is being used. He stated that such inspections are essential if GAO is to carry out its responsibilities for evaluating the effectiveness and improving the management of United States programs. He further stated that any contacts GAO might have with host country officials are arranged through United States country team channels, and that we know of no problem that has arisen as a result of this phase of our reviews.

On February 5, 1971, our office in Saigon requested permission from the Commander, U.S. Military Assistance Command, Vietnam, to visit the Korean Base Camp at Qui Nhon, Vietnam. As with the Thai base camp request, our office stated that we did not intend to contact

Korean personnel or review Korean records, but that we wished to make some visual observations of the condition and utilization of United States provided facilities and equipment. However, on March 6, 1971, a message from the Secretary of Defense to Commander in Chief, Pacific (CINCPAC) stated that the requested GAO visit was disapproved, and that GAO should be satisfied to interview United States military liaison personnel at some U.S. facility, other than Qui Nhon.

Contrary to DOD's opinion, the proposal was not satisfactory for purposes of auditing. It would not enable us to make a first hand observation of the existence, condition, and utilization of United States property provided the Korean forces for their use. We believe that the disapprovals of our requests to visit the Thai and Korean base camps in Vietnam were not justified. Furthermore, the disapprovals effectively prevented GAO from exercising its statutory responsibilities.

Refusal of the State Department to Allow
GAO to Conduct an Overseas Review

In March 1971, 13 months after GAO informed the United States Embassy in Germany that we planned to conduct a review of United States occupation costs in Berlin, we were informed by the Department of State that we would not be permitted to do so.

Our proposed review was designed to assure ourselves and the Congress that the United States occupation costs in Berlin which are properly chargeable to the Federal Republic of Germany are in fact borne by them, and that U.S. Government financial interests are being properly protected. Accordingly, in February 1970, we

informed the United States Embassy in Germany and U.S. Army officials of our plan to review the United States occupation costs in Berlin. At the time, U.S. Army officials interposed no objections to our examination of their records and processes. However, a United States Embassy official expressed a reservation that the basic audit agreement on Berlin did not permit an independent review by any of the powers' supreme audit organizations. In our discussion with Embassy and Department of State officials, we emphasized that our review would be limited solely to United States occupation costs and would be based on records available in the United States agencies.

In our attempt to resolve the issue, an official of our Office, in May 1970, formally requested that the Department of State authorize access to the pertinent records so that we could proceed with our review. In June 1970, we were advised by the Deputy Under Secretary for Administration and the Assistant Secretary for European Affairs, Department of State, that we could anticipate a reply to our request soon. After we had pressed for an answer over a period of nine months through letters, telephone calls, and meetings, we were officially advised in March 1971 that access was denied.

In denying us access, the response by the Department of State made no reference to invoking executive privilege; the Department of State does not have authority to deny us the right to examine the records or to conduct the review.

The General Accounting Office has the authority and responsibility to audit United States records relating to expenditures and receipts of the United States. Refusal on the part of the Department of State

to permit our staff to review the necessary records concerning occupation costs in Berlin precludes us from carrying out our responsibility for audits as provided by the Congress under Section 305 of the Budget and Accounting Act, 1921. This section states that:

"All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office."

Thus, the right of the General Accounting Office to unrestricted access to pertinent records is not only based on laws enacted by the Congress but is also inherent in the nature of the duties and responsibilities assigned by the Congress to the General Accounting Office.

In the latter part of April 1971, we reported this matter to eight committees of the Congress as well as to the Secretary of State.

Following issuance of the report, the Chairman, Senate Committee on Foreign Relations addressed a letter to the Secretary of State requesting an explanation of the matter. As of June 1971 GAO has not been advised of a Department of State response.

Management Reports, Trip Reports, and So-Called
Internal Working Papers Denied to GAO

The GAO during its review and evaluation of United States programs, whenever possible, utilizes the various reports prepared by Executive Branch personnel to avoid duplication of effort, and to ascertain the degree of internal management control exercised by Executive Branch personnel over the various programs involving United States expenditures.

The denial of these reports to GAO, including the recommendations and conclusions reached by personnel preparing the reports, seriously

hinders the GAO from being responsive to Congressional requests in a timely manner, and results in duplication of effort and expenditure. Following are a few examples of this type of information denied to GAO.

Management reports

In connection with our review of the administration of the military assistance training program, we requested access to CINCPAC Personnel Evaluation Group reports for Korea, Thailand, and China. These Performance Evaluation Group reports are a product of a CINCPAC evaluation group responsible for evaluating the effectiveness of the Military Assistance Program and the various military assistance organizations in the Pacific Command. Therefore, in order for us to ascertain any program weaknesses and duplications of effort, the reports prepared by this internal management group were essential.

In March 1969 CINCPAC denied us access to the evaluation reports for Korea. We made a formal request to the Secretary of Defense for reports pertaining to Korea, Thailand, and China. Four months after our request, the Secretary of Defense, in a letter dated August 4, 1969, informed us that the reports were not releasable at that time. The Secretary of Defense gave approval on November 25, 1969, for CINCPAC to furnish briefings on the "salient training facts" in the evaluation reports. On December 16, 1969, our Far East Branch received a CINCPAC briefing covering the Military Assistance Program training data reportedly contained in the 1969 reports for Korea, China, and Thailand. We advised the DOD personnel briefing us that the general information provided in the briefing was of little

value to us in performing our review due to lack of detailed data. We were told that CINCPAC policies and instructions prevented the release of necessary portions of the evaluation reports involving opinions, evaluations, and future planning data.

Trip Reports

In connection with our review of the use of Department of Defense excess defense articles in military assistance activities, we were denied access to official trip reports by DOD officials in Greece. The reason for our request was that trip reports, in addition to the factual matters contained in the reports, also contain opinions, observations, and recommendations submitted by subordinates making field inspections. Unless we receive access to the factual information and related interpretations we are inhibited in identifying problem areas.

Because of this need, our European Branch representatives requested copies of the Army advisors' trip reports on March 8, 1971. On March 11, 1971, the Joint United States Military Advisory Group, Greece, agreed to try and extract for our use, certain portions of the trip reports. Headquarters, U.S. European Command Directive 50-5 permits the release of trip reports after opinions, observations and recommendations, which do not represent final actions, have been removed. However, on March 19, 1971, on the basis of a cable received from the Department of Defense providing guidance on GAO access, the Joint United States Military Advisory Group, Greece, informed us that they would not provide any portion of the trip reports that we had requested.

Contents of the DOD cable which established this guidance for the Joint United States Military Advisory Group, Greece, was not made available to us.

Internal Working Papers

In connection with our review of United States assistance to Thailand in consideration of their deployment of forces to Vietnam, the Departments of Defense and State have refused us access to a document outlining the criteria for payments to the Thai Government. The document is referred to as the "Scope" document. It is our understanding that this document sets forth the financial framework within which the United States and Thailand operate and the specific commitments and activities the United States engage in relative to support of Thai troops participating in the Free World Military Assistance Program in Vietnam.

The Department of Defense refused us access to the Scope document on the basis that it was an internal working agreement, and the Department of State on the basis that the document did not originate with them.

The Scope document according to information provided to us in Thailand, has been used by a United States Committee in Thailand to evaluate claims for reimbursement submitted by the Thai Government in connection with their forces serving in Vietnam. In our opinion we must know the criteria used by the Committee as established in the Scope document if we are to determine that the Committee is properly evaluating the Thai claims.

We first requested the Scope document from military officials in Thailand on July 21, 1970. On August 11, 1970, our on-site auditors were informed by the Military Assistance Command, Thailand, that decision on release of the Scope document has been referred to higher authority. We were also informed verbally that the United States Embassy in Bangkok was objecting to the release of the document. We contacted State Department officials on August 26, 1970, and they stated they had the document, but that since it was a DOD document they could not release it to us.

On September 1, 1970, we verbally requested that DOD furnish us a copy of the Scope document and on September 9, 1970, we made the request in writing. In reply to our request DOD on November 4, 1970, stated the following:

"The Scope document is a draft internal working agreement between the United States and the Royal Thai Government (RTG) concerning reimbursement rates and procedures, which is still under negotiation. Therefore, since it has no official status, the "Scope" document is not considered suitable for release to the GAO."

In our opinion the Scope document was clearly a working document needed in our review and should have been made available to us. It is interesting to point out that the DOD refusal as quoted above was classified when initially transmitted to us by DOD, and was not declassified until we specifically requested DOD to declassify the statement.

Pertinent Planning Data not Provided to GAO

GAO, in its reviews of overseas programs, very often needs to know the future planning information of the Departments of Defense and State to properly evaluate the effectiveness of current programs. This

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planning data often shows the justification or rationale for current programs, and the planned methods or programs to solve deficiencies or shortfalls.

For example, during our review of the use of DOD excess defense articles in Greece, which began in Greece on February 17, 1971, we requested data used by the Joint United States Military Advisory Group in programming excess material for Greece under the Military Assistance Program. Some of the data requested included Military Assistance Program force objectives, annual future year planning data, equipment authorization documents, and assets and delivery data to support requirements. The information requested was required in order to properly validate the basis upon which the requirements for excess materials were computed and to evaluate the utilization of the material by the recipient country.

GAO was subsequently denied the requested planning data although some consolidated requirements and asset data was provided. The accuracy of the limited data provided could not be verified because Military Assistance Program supported listings and equipment authorization documents were not made available.

Due to restricted access, the GAO field team suspended its review efforts in Greece on March 27, 1971, pending resolution of the access problems. At the time of its departure from Greece, 24 written requests for information which had been submitted by the staff to the Joint United States Military Advisory Group, Greece, were still unanswered.

The termination of the work in Greece was followed by a series of discussions and correspondence between the GAO field staff and the U.S. European Command in an attempt to reach an agreement on the access problem. The GAO staff in Washington also requested the assistance of the office of the Assistant Secretary of Defense for International Security Affairs. Throughout these discussions, the withholding of information from GAO was defended by DOD officials primarily because it was (1) closely related to Joint Chiefs of Staff objectives which were not releasable to GAO, (2) host country developed data which could be released only with country concurrence, or (3) North Atlantic Treaty Organization information not releasable by the Joint United States Military Advisory Group, Greece.

On May 5, 1971, an understanding was reached as to the additional information which would be made available to GAO in both Greece and Turkey. The extent of the additional information to be released was not acceptable to GAO, since it represented abstracted data which could not be verified against source documentation. Moreover, the release of much of the supporting data for requirements computations which was to be provided, remained subject to the approval of the host countries, and under the ground rules established by the U.S. European Command, virtually no evaluative data would be made available. However, in order to obtain as much information as possible on the use of excess material, the GAO field staff returned to Greece on May 24, 1971, to resume the review work which had been suspended almost two months earlier.

At the request of the Chairman, Senate Committee on Foreign Relations, GAO, in January 1969, undertook a major review of the Military Assistance Training Program in ten countries, including China and Thailand. In the initial phases of the review GAO had a number of problems in obtaining information necessary for the review. As a result, the Chairman, Senate Committee on Foreign Relations, in a letter to the Secretary of Defense, dated May 21, 1969, requested that the Secretary of Defense insure that GAO be given access to planning information and all other pertinent information.

On June 26, 1969, the Secretary of Defense replied to Chairman Fulbright's letter of May 21, 1969. The Secretary of Defense stated that the formal Five Year Plan for the Military Assistance Program had not, in the past, been made available to GAO or to the Chairman, House Committee on Foreign Affairs, because the Plan is regarded as a staff study, an entirely tentative planning document at the staff level, and is usually extensively adjusted when the size of the budget submission is decided on by the President. The Secretary of Defense also stated that he, in order to fully cooperate with the Committee, would have DOD officials give detailed briefings on the Plan, as it relates to training, to anyone designated by Senator Fulbright.

On August 4, 1969, the Secretary of Defense sent a message to the Unified Commands, stating that GAO could be briefed on the Military Assistance Program five-year training program, comprising for the most

part five-year dollar projections. The message further stated that this guidance was based on the Secretary of Defense reply to Senator Fulbright's May 1969 inquiry as to the release of information to GAO.

In a message dated September 21, 1969, CINCPAC informed the Secretary of Defense that the GAO representatives in China and Thailand had requested access to the Military Assistance Program Planning Reference Books for those countries. The messages stated that CINCPAC, in accordance with DOD guidance, would advise CINCPAC representatives in those countries to provide narratives of the books, provided that extensive editing would not be required to eliminate future planning information. The message concluded by requesting that the Secretary of Defense formally refuse GAO's request for the books because only the Secretary of Defense could properly do so, in accordance with a DOD directive.

On September 26, 1969, the Secretary of Defense advised CINCPAC that the guidance furnished on August 4, 1969, still applied, and that if GAO representatives requested additional future planning information beyond that authorized, the request should be made to DOD through GAO in Washington, since only the Secretary of Defense can deny such a request.

A month later, October 27, 1969, the Military Assistance Command, Thailand, received approval from CINCPAC to release edited versions of the Military Assistance Program planning books.

In our opinion, receipt of information which has been edited and then provided GAO in briefings does not provide the substantive in-depth information required for our evaluative purposes. We believe

that the unexpurgated versions of narrative sections of the plan should be made available to us so that we can review and analyze the reasoning and justification of actions taken or proposed with background data that DOD had reference to on making their judgments and decisions.

In our review of military assistance to the Republic of China in 1970, we were denied access by the DOD to a military air defense study for the island of Taiwan (as well as the Joint Strategic Objectives Plan for the Republic of China). We were told by DOD that the two documents contained contingency war plans as well as future year planning and were internal management working documents; therefore, they could not be released to us. This denial inhibited our evaluation of the integration, coordination, and contribution of DOD's planning to the achievement of overall United States objectives.

Delaying Tactics of the Departments of Defense and State

The Departments of Defense and State have instructed their field personnel not to provide sensitive information to our field auditors, but to refer the request to Washington. The Departments in their guidance provided examples of some categories of information, such as negotiation documents, and agreements with foreign governments which are to be considered sensitive, but the decision on the classification of documents as sensitive in respect to non-releasability to GAO apparently rests with appropriate responsible officials in the field. As a result of this guidance, our auditors have been unable to obtain needed information when requested. Documents classified as sensitive have been subject to many levels of reviews, and often before a decision was reached in Washington many months elapsed and our field

auditors had left the field site when a decision to release the information had finally been reached. For instance:

In early 1970, we undertook a review of the U.S. assistance to the Philippine Government in support of the Philippine Civic Action Group at the request of the Chairman, Subcommittee on U.S. Security Agreements and Commitments Abroad, Committee on Foreign Relations, U.S. Senate. The Departments of State and Defense delayed our work on this assignment to the extent that we had to curtail the scope of our review and qualify our report to the Chairman.

Members of our staff were required to wait for periods of two weeks to two months to look at some documents they had requested and frequently the documents proved to be of little value for our purposes. We were also restricted by ground rules established unilaterally by the Departments that effectively limited our review in the field to the Departments' very narrow interpretation of what it judged to be the scope of our review. This was perhaps the most restrictive limitation placed on our work, and it completely frustrated our attempts to review assistance to the Philippines that was not funded in the military functions appropriations.

Our audit staff members in the field were advised that documents which they requested that were releasable to us under the restrictions of the so-called ground rules had to be dispatched to Washington for Departmental clearance. By early May 1970, only four of 12 documents which were requested by our staff members on January 28, 1970, had been released to them in Manila.

In our review involving United States assistance to Thailand, our Far East Branch requested on July 30, 1970, certain adjutant general documents and message logs from the Military Assistance Command, Thailand. The message logs were requested in order to identify documents, records, or messages pertinent to our review. The Military Assistance Command advised us in the latter part of August 1970, that it had been necessary to request guidance from higher authority as to releasability of the information and suggested that GAO, also, contact such authority at the Washington, D.C., level. Following their suggestion, we addressed our request to the Department of Defense in Washington on September 9, 1970. We learned that following our request in August, the Military Assistance Command officials had referred our request to the Embassy in Bangkok, who in turn referred the request to the State Department on August 31, 1970. The Department had informed the Embassy in Bangkok that they had no basic objection to the release of the logs; however, since they had not seen the logs, the Embassy would have to decide as to whether to release the logs. In a letter dated November 4, 1970 to GAO the Department of Defense stated that their decision was that access to the logs was authorized, provided the contents were releasable in accordance with existing guidance. However, by this point in time, the GAO audit staff had left the audit site where the logs were located. Thus, the purpose in examining the logs was as effectively defeated by the delays encountered as if an outright denial by the Departments had been made initially.

In connection with Thailand's involvement with free world forces in Vietnam, we requested information from the Department of the Army on October 6, 1970, concerning the computations by which they had arrived

at certain amounts shown in quarterly reports to the Congress. This request was made in order that we might evaluate the validity and accuracy of the amounts shown in the quarterly reports submitted by the Department of Defense to the Congress. Although this information was prepared by October 23, 1970, it was not released until March 19, 1971. In a similar request for data made on October 12, 1970, the response was not furnished until March 25, 1971, even though we had made repeated attempts to elicit the information.

In connection with our current review of utilization of excess defense articles in MAP, we requested a country-to-country agreement between the United States and Australia on March 31, 1971. The agreement involves the overseas procurement transaction for the acquisition of trucks and trailers in Australia for delivery to Cambodia. The purpose for the request was to enable us to ascertain why the arrangement was made in lieu of alternatives available and whether, in fact, the agreement was a form of consideration to the Australian Government for their participation in the support of our efforts in Vietnam.

We first made our request for the agreement to the Department of State on March 31, 1971. On the same date the Department of State informed us that the agreement was dated March 4, 1971, and that they believed the document was unclassified but that our request should be channeled to the Department of Defense, rather than to them. Upon addressing our request to the Department of Defense on April 6, 1971, they referred us back to the State Department because State clearance was necessary for release of the agreement. The Department of State

advised us on the same day that they were unable to release the document until they acquired clearance from the Australian Government through the Australian Embassy. On April 14, 1971, the State Department advised us that the Department of Defense had sought this clearance from the Embassy, however, on the same date, we received a denial from the Department of Defense of any such communication with the Australian Embassy. On April 15, 1971, the State Department informed us that the Department of Defense had received the Australian Government's clearance but that the Department of Defense must first present a written request for State Department clearance. On the same date, April 15, the Department of Defense told us the Australian clearance was still pending. Four days later, the Department of Defense told us that more internal coordination was necessary before a release was possible. In a follow-up concerning the status of our request, on April 28, 1971, the Department of Defense official whom we had contacted stated he had forgotten our request.

Finally, on May 5, 1971, DOD provided the agreement as requested. The agreement provided to GAO was classified although the agreement on file in the legal section of DOD was not so classified. In our opinion, the material included in the agreement does not appear to be of such a nature that the interests of the United States would be adversely affected if its contents were released to the public.

During our review of financial and material assistance provided to the Thai Government by the United States, our Far East Branch representatives requested, on July 21 and July 28, 1970, sixteen messages

from the Military Assistance Command, Thailand, that were not received until January 27, 1971. The messages were originated by the Commanders, United States Military Assistance Commands, Thailand and Vietnam, the Secretary of Defense, the Department of the Army, and the Joint Chiefs of Staff during the latter part of 1967 and early 1968. Each of these messages was vital to our effective evaluation of United States assistance to the Thai government. Their contents dealt with pertinent areas of our review, such as a HAWK missile system which the United States agreed to provide to the Thais, training and equipping of Thai forces, U.S. support related to a Thai Army Division and its deployment to South Vietnam, and the possibilities of further Thai contributions to free world forces in Vietnam.

As of August 28, 1970, the messages had not been received or made available for our review. Military Assistance Command, Thailand officials advised us that they had requested guidance from higher authority as to the releasability of the messages, and suggested we contact such authority at the Washington, D.C., level.

On September 9, 1970, we readdressed our request for the messages to the Department of Defense. Nearly two months later, on November 4, 1970, DOD responded, advising us that only two of the subject messages had been located. DOD stated that the two messages had been authorized to be released to our Far East representatives.

Finally, on January 27, 1971, DOD provided copies of the 16 requested messages. We believe that the 6-month delay, before we finally obtained all of the messages, was inexcusably long and seriously impeded our review.

On December 11, 1970, our representatives in Korea requested from the Provisional Military Assistance Advisory Group, Korea, the Provisional Military Assistance Advisory Group, Korea Military Assistance Plan Fact Book for 1969 Defense Ministers Conference. Since our representatives in Korea did not receive the document, a similar request was addressed to the Department of Defense in Washington on January 26, 1971. On January 29, 1971, our representatives in Korea were formally informed that the subject request had been referred to higher authority for determination as to releasability.

The document was provided to us in Washington on April 9, 1971, by the Department of Defense. Due to the delay of approximately four months involved in our acquisition of the document and the fact that our representatives had departed from the audit site by the time of receipt, we were denied the opportunity to analyze and discuss the material with appropriate host country officials.